S.B.CRIMINAL MISC. PETITION NO.1125/2006
(Kanhaiya Lal and ors. V/s State of Rajasthan and anr.)

Date of order : : 03.04.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.Moti Singh, for the petitioners.
Mr.Ashok Upadhyay, PP for the State.

Heard learned counsel for the petitioners as well as learned Public Prosecutor. None appears for the respondent No.2 despite service.

The learned Magistrate has taken cognizance for offences under Sections 406, 498A and 494 I.P.C. against Kanhaiya Lal and Bhana Ram and for offence under Section 494 I.P.C. against Smt. Geeta. The main contention of the learned counsel for the petitioners is that the offence took place 4 years back and therefore, cognizance is barred by Section 467 Cr.P.C. The learned counsel for the petitioner also states that cognizance for offence under Section 494 I.P.C. has been taken on police report, whereas it is a complaint case.

The learned Public prosecutor states that the issue regarding limitation has not been raised before the learned Magistrate and the impugned order has rightly been passed.

I have considered the rival submissions made by the learned counsel for the parties.

The present misc. petition is disposed of with the observation that the petitioner shall raise the issue regarding limitation as well as cognizance for offence under section 494 I.P.C. on police report before the learned Magistrate and the learned Magistrate shall decide the same in accordance with law.

(KRISHAN KUMAR ACHARYA), J.

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